



Billing Code: 3510-22-P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 622

[Docket No. 0907271173-0629-03]

RIN 0648-XC380

Snapper-Grouper Fishery of the South Atlantic; 2012 Commercial Accountability Measure and Closure for South Atlantic Snowy Grouper

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Temporary rule; closure.

SUMMARY: NMFS implements accountability measures (AMs) for the commercial sector for snowy grouper in the South Atlantic exclusive economic zone (EEZ). Commercial landings for snowy grouper, as estimated by the Science Research Director, are projected to reach the commercial annual catch limit (ACL) on December 19, 2012. Therefore, NMFS closes the commercial sector for snowy grouper on December 19, 2012, for the remainder of the 2012 fishing year. This action is necessary to prevent overfishing of the South Atlantic snowy grouper resource.

DATES: This rule is effective 12:01 a.m., local time, December 19, 2012, until 12:01 a.m., local time, January 1, 2013.

FOR FURTHER INFORMATION CONTACT: Catherine Hayslip, telephone: 727-824-5305, e-mail: Catherine.Hayslip@noaa.gov.

SUPPLEMENTARY INFORMATION: The snapper-grouper fishery of the South Atlantic, which includes snowy grouper, is managed under the Fishery Management Plan for the Snapper-Grouper Fishery of the South Atlantic Region (FMP). The FMP was prepared by the South Atlantic Fishery Management Council and is implemented under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) by regulations at 50 CFR part 622.

Background

The 2006 reauthorization of the Magnuson-Stevens Act implemented new requirements that ACLs and AMs be established to end overfishing and prevent overfishing from occurring. ACLs are levels of annual catch of a stock or stock complex that are set to prevent overfishing from occurring. AMs are management controls to prevent ACLs from being exceeded, and to correct or mitigate overages of the ACL if they occur.

The final rule for Amendment 17B to the FMP established ACLs for eight snapper-grouper species undergoing overfishing, including snowy grouper, and AMs to be implemented if these ACLs are projected to be reached, reached, or exceeded (75 FR 82280, December 30, 2010).

The commercial ACL (commercial quota) for snowy grouper is 82,900 lb (37,603 kg), gutted weight, for the current fishing year, as specified in 50 CFR 622.42(e)(1).

The AMs for snowy grouper, specified at 50 CFR 622.49(b)(2)(i), require NMFS to close the commercial sector for snowy grouper when the commercial ACL (commercial quota) has been reached, or is projected to be reached, by filing a notification to that effect with the Office of the Federal Register. NMFS has projected that the commercial ACL (commercial quota) for South Atlantic snowy grouper will be reached by December 19, 2012. Accordingly, the commercial sector for South Atlantic snowy grouper is closed effective 12:01 a.m., local time, December 19, 2012, until 12:01 a.m., local time, January 1, 2013.

The operator of a vessel with a valid commercial vessel permit for South Atlantic snapper-grouper having snowy grouper onboard must have landed and bartered, traded, or sold such snowy grouper prior to 12:01 a.m., local time, December 19, 2012. During this commercial closure, the bag limit and possession limits specified in 50 CFR 622.39(d)(1) and (d)(2), respectively, apply to all harvest or possession of snowy grouper in or from the South Atlantic EEZ, and the sale or purchase of snowy grouper taken from the EEZ is prohibited. The

prohibition on sale or purchase does not apply to the sale or purchase of snowy grouper that were harvested, landed ashore, and sold prior to 12:01 a.m., local time, December 19, 2012, and were held in cold storage by a dealer or processor. During the closure, the bag and possession limits and the prohibition on sale/purchase apply in the South Atlantic on board a vessel for which a valid Federal commercial or charter vessel/headboat permit for South Atlantic snapper-grouper has been issued, without regard to where the fish were harvested, i.e., in state or Federal waters, as specified in 50 CFR 622.43(a)(5)(ii).

Classification

The Regional Administrator, Southeast Region, NMFS, has determined this temporary rule is necessary for the conservation and management of South Atlantic snowy grouper and is consistent with the Magnuson-Stevens Act and other applicable laws.

This action is taken under 50 CFR 622.49(b)(2)(i) and is exempt from review under Executive Order 12866.

These measures are exempt from the procedures of the Regulatory Flexibility Act because the temporary rule is issued without opportunity for prior notice and comment.

This action responds to the best available information recently obtained from the fishery. The Assistant Administrator for Fisheries, NOAA, (AA), finds that the need to immediately

implement this action to close the commercial sector for snowy grouper constitutes good cause to waive the requirements to provide prior notice and opportunity for public comment pursuant to the authority set forth in 5 U.S.C. 553(b) (B), as such procedures would be unnecessary and contrary to the public interest. Such procedures are unnecessary because the AMs established by Amendment 17B and located at 50 CFR 622.49(b) (2) (i) have already been subject to notice and comment, and all that remains is to notify the public of the closure. Allowing prior notice and opportunity for public comment is contrary to the public interest because of the need to immediately implement this action to protect the South Atlantic snowy grouper resource. Prior notice and opportunity for public comment would require time and would potentially result in a harvest well in excess of the established commercial ACL (commercial quota).

For the aforementioned reasons, the AA also finds good cause to waive the 30-day delay in the effectiveness of this action under 5 U.S.C. 553(d) (3).

Authority: 16 U.S.C. 1801 et seq.

Dated: December 10, 2012

Lindsay Fullenkamp,
Acting Deputy Director,
Office of Sustainable Fisheries,
National Marine Fisheries Service.

[FR Doc. 2012-30101 Filed 12/10/2012 at 4:15 pm; Publication
Date: 12/13/2012]